

REMARKS

This Response is submitted in reply to the final Office Action mailed on September 11, 2007. A Request for Continued Examination ("RCE") is submitted herewith. The Director is authorized to charge the amount of \$810.00 for the cost of the RCE and any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-462 on the account statement.

Claims 17-59 are pending in this application. Claims 17-55 were previously withdrawn. Claims 1-16 were previously canceled. In the Office Action, Claims 56-59 are rejected under 35 U.S.C. §102. For at least the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 56-59 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,267,195 to Boudreau et al. ("*Boudreau*"). For at least the reasons set forth below, Applicants respectfully disagree and request that the rejection be withdrawn.

Independent Claim 56 recites, in part, a pet food comprising at least one amino acid selected from lysine, cysteine and combinations thereof, the lysine comprising 2.7% to about 3.1% by weight of the pet food and the cysteine comprising from about 0.50% to about 0.75% by weight of the pet food.

In contrast, *Boudreau* is directed primarily toward dog food flavors and dog foods having increased palatability due to the flavors. See, *Boudreau*, Background. At no place in the disclosure does *Boudreau* disclose or even suggest the percentages of lysine or cysteine required, in part, by Claim 56. For example, the Patent Office asserts that the cysteine content of the instant pet foods meet the claims, as about 0.755% cysteine was effective (col. 3) and, thus, when employed with solid dog food (col. 2, lines 37-48), they meet the composition claim and would be effective as is instantly claimed. See, Office Action, page 2. However, *Boudreau* specifically describes a dog food flavor composition that is desirably coated on the outside of a solid dog food and applied in a manner which allows their release into any water used for hydration. See, *Boudreau*, col. 2, lines 37-41. Similarly, *Boudreau* specifies that effective levels of cysteine in the dog food comprise 1% and 3% by weight of the dry weight of the dog food in the case where a 100 gram sample of the food is fed to the dog in combination with 150 grams of warm water. See, *Boudreau*, col. 3, lines 7-13. Because the effective level of cysteine comprises

1-3% of the 100 gram sample of dry weight of the dog food, *Boudreau* cannot disclose cysteine comprising from about 0.50% to about 0.75% by weight of the pet food.

Applicants respectfully disagree with the Examiner's assertion that "the per[cent] amino acids [are] applicable to the wet or dry dog food." See, Office Action, page 2, lines 6-7. In contrast, Applicants respectfully submit that the reference does not disclose that the percent amino acids are applicable to a wet dog food. In fact, the reference specifically states that effective levels of cysteine include "1% and 3% by weight of the dry weight of the dog food." See, *Boudreau*, column 3, lines 7-10. As such, Applicants respectfully submit that the Examiner cannot interpret "dry" to mean "wet or dry dog food" when the applied reference specifically indicates that the cysteine levels correspond only to the "dry weight" of the dog food. Similarly, the percentages of cysteine contained in *Boudreau* cannot be read as applying to a dog food comprising 100g of dry dog food and 150g of warm water when the reference specifically states that the percentages of cysteine specifically apply solely to the 100g of dry dog food. Therefore, at best, *Boudreau* discloses 1% and 3% cysteine of 100g of dry dog food, in contrast to the cysteine comprising from about 0.50% to about 0.75% by weight of the pet food as required, in part, by the present claims.

Moreover, *Bourdeau* fails to disclose or even suggest lysine comprising from about 2.7% to about 3.1% by weight of the pet food. In fact, the only mention of amounts of L-lysine in *Boudreau* teaches that 1% of L-lysine was not efficient to show palatability boosts. Because *Boudreau* fails to disclose or suggest any amount over 1% L-lysine, and even teaches away from using the 1% of L-lysine, *Boudreau* cannot disclose lysine comprising about 2.7% to about 3.1% by weight of the pet food.

Similarly, independent Claims 57-59 recite, in part, a pet food comprising at least one amino acid selected from lysine, cysteine and combinations thereof, the lysine comprising from about 6.7% to about 12.5% by weight of the dietary protein level of the pet food and the cysteine comprising from about 1.67% to about 2.68% by weight of the dietary protein level of the pet food. In contrast, *Boudreau* fails to disclose or even suggest lysine comprising 6.7% to about 12.5% by weight of the dietary protein level of a pet food and cysteine comprising from about 1.67% to about 2.68% of the dietary protein level of the pet food. In fact, the only mention of amounts of L-lysine in *Boudreau* teaches that 1% of L-lysine was not efficient to show palatability boosts. Because *Boudreau* fails to disclose or suggest any amount over 1% L-lysine,

and even teaches away from using the 1% of L-lysine, *Boudreau* cannot disclose lysine comprising 6.7% to about 12.5% by weight of the dietary protein level of a pct food as required, in part, by the present claims. As such, Applicants respectfully submit that *Boudreau* fails to disclose each and every element of independent Claims 56-59 and, therefore, fails to render the present Claims anticipated. Moreover, Applicants respectfully submit that *Boudreau* does not even suggest these features.

Accordingly, Applicants respectfully request that the anticipation rejections with respect to Claims 56-59 be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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